

## WTO and Fiscal Package

In the framework of Albania's WTO commitments and regional free trade agreements as well as the undergoing process of negotiations in the context of the Stabilization and Association Agreement with EU, considering the proposed changes on the 2004 draft fiscal package, the Albanian Center for International Trade (ACIT) calls attention to the following:

1. From the moment of the World Trade Organization (WTO) membership, Albania shall respect all undertaken and agreed commitments within the WTO legal and regulatory framework. Any deflection from these rules is considered a violation of the Agreement and is subject to disciplinary measures from the WTO members.
2. Even though the applied custom duty for some commodities should have been abolished since 2002, Albania continues to not respect this commitment. Such commodities include fishery products and vegetal oil, which custom duties should have become 0 starting from 2002 and beer, which should not have had increased its custom duty, while such change was done on last year's fiscal package. Instead, a reduction of 10% from 15% foreseen in the fiscal package under discussion shall apply during 2004. The 2004 fiscal package foresees that Albania's commitments regarding the reductions on custom duties shall not be respected for some other commodities as well such as the paper and cardboard industry, cast-iron, steel and thereof products, furnishings, etc.
3. According to the in-force provisions of the WTO Agreement, after negotiating and agreeing on the commitments that the country will undertake, it is therefore not possible to postpone and putting new deadlines<sup>1</sup> without respecting the foreseen procedures. As the WTO membership protocol of Albania foresees, the list of custom duties in its annexes is an equivalent of the lists to be attached to the GATT commitments. Thus, their execution becomes an obligation at the moment of entering into force of the agreement and its protocol as an integral part of it<sup>2</sup>. Nevertheless, the WTO agreement allows certain exemptions from the obligations issued from multilateral agreements in extraordinary cases assuming the existence of a justification from the respective country and of the approval from the ministers' conference with a participation of a ¾ of its membership<sup>3</sup>. List of commodities and the tariff duty reductions could also be modified, complying with the respective procedures as foreseen under article XXVIII of GATT.

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<sup>1</sup> According to article XII of the WTO Agreement, it is possible for each country to become member of this organization and multilateral agreements, by respecting certain conditions to be defined between the above country and existing member countries. These conditions are subject to preliminary negotiations and are considered as the "ticket" to WTO. Once defined, they cannot be renegotiated. Countries are allowed to demand for amendments of particular agreements, based on specific procedures as defined in article X of the WTO Agreement. Approval of amendment of particular agreement articles requires a participation of ¾ of the membership of the ministerial conference.

<sup>2</sup> Please see Albania's WTO Membership Protocol, July 17, 2000, WT/ACC/ALB/53

<sup>3</sup> Please see article IX of the WTO Agreement

4. The custom duties increase for particular commodities such as the beer, contradicts with the Free Trade Agreements (FTA) already in force with the countries of the region, where according to a specific provision, starting from the moment of their signing, it is prohibited any increase the custom duties levels<sup>4</sup>. We would like to highlight the fact that, when signing an FTA, recommendations and specifications in the WTO legislation, respectively in the article XXIV on regional integration, must be taken in consideration as well. This article anticipates that FTAs should include “substantial trade” and that in the text of Memorandum of Trade Liberalization between SEE-7 countries it is specified that FTAs shall include not less than 90% of commodities.
5. Non accomplishment of the undertaken commitments is considered an intolerable act from country members both in the WTO and FTA context. Such behavior, other than transmitting negative signals to the international community and investors, impedes Albania’s progress in the process of EU membership.
6. In case that execution of commitments, both in the WTO and FTAs context, encourages unfair competition or threatens a national industry, application of temporary protection measures is allowed, presuming that respective procedures will be respected and this act will not be considered as a simply unilateral action. In this context, assuming that the beer production industry will face the unfair competition of foreign imports or present a bankruptcy risk for all the industry, the stakeholders must submit credible evidence on this purpose. In this view, trade policy formulation goes beyond the nationalist rhetoric and becomes subject of economic analyses. ACIT wishes to express its willingness in assisting the groups of interest in formulating their opinions with respect to the required standards of international treaties where Albania adheres.

Summing up, ACIT expresses its belief that the national interests as well as those for economic development have already defined the European integration as an aspired and welcomed process. Any negative signal or delay in these processes would on the contrary injure the country’s economic interests.

Tirana, November 18, 2003

**Note:** This material states ACIT expert staff opinion, which does not necessarily include the official opinion of USAID, its donor agency.

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<sup>4</sup> Please see article 4 of FTA with Macedonia, Croatia, etc. Amendments of FTA and attached annexes’ articles are as well reviewed according to specific procedures defined by the agreement and not unilateral decisions of member countries (see article 33 and on of the agreement with Macedonia).